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7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF WASHINGTON  
9 AT SPOKANE

10 HELL YEAH CYCLES, a Washington  
11 Limited Liability Company,

Plaintiff,

vs.

13 OHIO SECURITY INSURANCE  
14 COMPANY, a foreign insurer,

Defendant.

No. CV-13-184-TOR

NOTICE OF REMOVAL TO  
FEDERAL COURT PURSUANT TO  
28 USC §1441 & §1446

15 TO: Judges of the United States  
16 District Court for the Eastern District of Washington at Spokane

17 AND TO: The Attorney for Plaintiff

18 Defendant Ohio Security Insurance Company, ("Ohio Security"), hereby  
19 provides notice of removal pursuant to 28 U.S.C § 1332(a) and (c), § 1441(a), §  
20 1446(a), (b) and (d), and Western District CR 101(a) and (b). The grounds for  
21 removal are as follows:

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NOTICE OF REMOVAL TO FEDERAL  
COURT – 1  
lj/JBL1379.274/1198411

WILSON SMITH COCHRAN DICKERSON  
A PROFESSIONAL SERVICE CORPORATION  
901 FIFTH AVENUE, SUITE 1700  
SEATTLE, WASHINGTON 98164-2050  
TELEPHONE: (206) 623-4100 FAX: (206) 623-9273

1       1. On April 15, 2013, Plaintiff filed a Summons and Complaint in the  
 2 Superior Court of Spokane County. The complaint was served on Ohio Security  
 3 on April 19, 2013. The case is entitled, *Hell Yeah Cycles v. Ohio Security*  
 4 *Insurance Company*, Cause No. 13-2-01393-7. See Declaration of Joshua B.  
 5 Lane In Support Of Removal To Federal Court Pursuant To 28 USC §1441 &  
 6 §1446 (“Lane Declaration”), ¶ 3. A true and correct copy of the Complaint is  
 7 attached as **Exhibit A** to the Lane Declaration. This Notice of Removal is  
 8 therefore timely because it has been filed within thirty (30) days after the case  
 9 first became removable. 28 U.S.C. § 1446(b).

10      2. This notice of removal is brought pursuant to 28 U.S.C. §§1441(a),  
 11 1446 and Eastern District CR 101(a) and (b). This Court has original  
 12 jurisdiction pursuant to 28 U.S.C. §1332(a) and (c) on the basis that there is  
 13 complete diversity of citizenship between the parties and the amount in  
 14 controversy is in excess of \$75,000, exclusive of interest and costs. Venue is  
 15 proper in the U.S. District Court for the Eastern District of Washington because  
 16 the action was filed in Spokane County, Washington. See 28 USC §1441(a). *Id.*  
 17 at ¶ 4.

18      3. Defendant Ohio Security is a foreign corporation. *Id.* at ¶ 5. Ohio  
 19 Security currently is incorporated under the laws of the State of Ohio with its  
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1 principal place of business in Boston, Massachusetts and therefore is a citizen of  
 2 a state other than Washington. *Id.*

3       4. Upon information and belief, Plaintiff was at the time the complaint  
 4 was filed, and currently is a Washington limited liability corporation, and  
 5 therefore a resident of Washington. Lane Decl. ¶ 6. There is complete diversity  
 6 of citizenship between the parties pursuant to 28 U.S.C. §1332 (a) and (c).

7       5. Plaintiff asserts claims for property damage claimed under the  
 8 insurance contract, breach of contract, alleged bad faith and for violations of the  
 9 Washington Administrative Code Regulations, the Insurance Fair Conduct Act  
 10 and Consumer Protection Act. Lane Decl. ¶ 7; *see also* Ex. A to the Lane Decl.  
 11 at ¶¶ 3.1 – 7.1. These claims relate to November 28, 2012 fire which allegedly  
 12 destroyed both the building and contents owned by Plaintiff. *Id.* Upon  
 13 information and belief, the amount of actual damages in controversy in this  
 14 matter is in excess of \$75,000. *Id.*

15       6. In addition to contractual damages and general damages in this  
 16 matter, Plaintiff also seeks treble damages and attorney fees under the Insurance  
 17 Fair Conduct Act and Consumer Protection Act, which are included for  
 18 calculating whether a plaintiff's claim meets the amount in controversy  
 19 requirement. *See e.g., Guglielmino v. McKee Foods Corp.*, 506 F.3d 696,  
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1 700 (9th Cir. 2007); Lane Decl. ¶ 8.

2       7. The underlying state court action is one for which this Court has  
 3 original jurisdiction under the provisions of 28 U.S.C. § 1332, and is one that  
 4 may be removed to this Court by the defendant pursuant to the provisions of 28  
 5 U.S.C. § 1441 because the matter in controversy exceeds the sum or value of  
 6 \$75,000 and is between citizens of different states.

7       8. Pursuant to 28 U.S.C. § 1332(a) and (c), § 1441(a), § 1446(a), (b)  
 8 and (d), and Eastern District CR 101(a) and (b) of the Local Rules for the  
 9 Eastern District of Washington, this case is properly removable.

10      9. Defendant Ohio Security has given written notice of the filing of  
 11 this Notice of Removal to all attorneys of record and to the Clerk of the Superior  
 12 Court of Spokane County, Washington. 28 U.S.C. § 1446(d). In accordance  
 13 with Eastern District Civil Rule 101(b), a true and correct copy of the docket,  
 14 which includes the Complaint and all other pleadings filed in the state court, is  
 15 attached to the Lane Dec. at **Exhibit B**.

16      WHEREFORE, Defendant Ohio Security requests that this action be  
 17 removed to the United States District Court for the Eastern District of  
 18 Washington at Spokane.

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20      NOTICE OF REMOVAL TO FEDERAL  
 21 COURT – 4  
 ljj/JBL1379.274/1198411

22      WILSON SMITH COCHRAN DICKERSON  
 23 A PROFESSIONAL SERVICE CORPORATION  
 901 FIFTH AVENUE, SUITE 1700  
 SEATTLE, WASHINGTON 98164-2050  
 TELEPHONE: (206) 623-4100 FAX: (206) 623-9273

1 DATED this 15<sup>th</sup> day of May, 2013.

2 s/John M. Silk

3 John M. Silk, WSBA No. 15035  
4 WILSON SMITH COCHRAN DICKERSON  
5 Of Attorneys for Ohio Security Insurance Company  
6 901 Fifth Avenue, Suite 1700  
7 Seattle, WA 98164  
8 Ph: (206) 623-4100 / Fax: (206) 623-9273  
9 silk@wscd.com

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**CERTIFICATE OF SERVICE**

I am employed by the law firm of Wilson Smith Cochran Dickerson, 901 Fifth Avenue, Suite 1700, Seattle, WA 98164. On the date below I caused to be served the foregoing document on:

**Attorney for Plaintiffs**

Brian S. Sheldon  
Phillabaum, Ledlin, Matthews & Sheldon, PLLC  
1235 North Post Street, Suite 201  
Spokane, WA 99201

Via U.S. Mail  
 Via Facsimile: 509-625-1909  
 Via Hand Delivery  
 Via Email: [bsheldon@spokelaw.com](mailto:bsheldon@spokelaw.com) (ECF Notification)

I declare under penalty of perjury and under the laws of the State of Washington that the forgoing is true and correct.

**SIGNED** this 15<sup>th</sup> day of May, 2013 at Seattle, Washington.

s/Aimee Muul

Aimee Muul